

REMARKS

The present response is to the Office Action mailed in the above-referenced case on March 18, 2008.

Merit Rejection 35 U.S.C. 102(b)

Claims 1, 5, 11, 15, 21 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Bleickardt et al. (5,461,622) hereinafter Bleickardt.

Allowable Subject Matter

6. Claims 2-7, 12-17, 23-25 and 28-30 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims and a terminal disclaimer filed to overcome the nonstatutory double patenting rejection.

Applicant's response:

Applicant herein amends the independent claims to include subject matter of associated depended claims, indicated as patentable by the Examiner. Specifically, applicant amends claim 1 with claim 2 reciting, "retrieving one of the first portions of data and its associated first code, retrieving one of the second portions of data and its associated second code, determining by the codes whether the first and second portions of data were generated from the same packet of data, and if the first and second portions of data were generated from the same packet of data, combining them to regenerate the packet of data and if the first and second portions of data were not generated from the same packet of data, performing a recovery operation. Claim 1 is now patentable, as indicated by the Examiner.

Independent claim 11 is herein amended to include the limitations of dependent claim 12. Claim 11, as amended, now provides for a recombining mechanism for reading from the storage device one of the first portions of data stored therein and its associated first code, and one of the second portions of data stored therein and its

associated second code, determining by the codes whether the first and second portions of data were generated from the same packet of data, and if the first and second portions of data were generated from the same packet of data, combining them to regenerate the packet of data and if the first and second portions of data were not generated from the same packet of data, a recovery operation is performed to recover the correct portions of data. Claims 13-17 are also patentable on their own merits, or at least as depended from a patentable claim. Claim 12 is herein canceled.

Claim 21 is herein amended to include the limitations of depended claim 23, indicated as patentable by the Examiner. Claim 21, as amended read, "if the first and second portions of data were generated from the same packet of data, combining them to regenerate the packet of data; and

if the first and second portions of data were not generated from the same packet of data, performing a recovery operation."

Therefore, claim 21, as amended is patentable over the art presented by the Examiner. Claims 24-25 are patentable on their own merits, or at least as depended from a patentable claim. Claim 23 is herein canceled.

Independent claim 26 is herein amended to include the limitations of claim 28, indicated as allowable by the Examiner. Claim 26, as amended, reads, "a recombination mechanism that, if the first and second portions of data were originally from the same packet of data, combining them to regenerate the packet of data; and

a recovery mechanism to perform a recovery operation if the first and second portions of data were not generated from the same packet of data."

Claim 26 is therefore patentable. Depended claims 29-30 are patentable on their own merits, or at least as depended from a patentable claim. Claim 28 is herein canceled.

Summary

As all of the remaining claims have been shown to be patentable over the Examiner's rejections by accepting indicated allowability, applicant respectfully requests reconsideration and the case be passed quickly to issue.

If any fees are due beyond fees paid with this response, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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